





- Don't assume case agent knows to bring evidence
- Schedule a time with the clerk and case agent to mark evidence
- Make sure all evidence is packaged appropriately
- · Make sure weapons are secure
- Check evidence to make sure it is the right evidence and the complete evidence
- Check the chain of custody

MOST IMPORTANT

- Photographs
- Physical Evidence
 - Drugs
 - Guns
 - Clothes
 - Weapons/ammo/casings/bullets
 - Other objects

Main Types of Evidence

• Photographs















	Videos/Audio	_		
	• 911 Calls			
	Documents Bank Records Cell phone Records Computer Records	-		
	Business Records Priors Social Media	_		
	Demonstrative Evidence	_		
		_		
	Main Types of Evidence	_		
	Show to the defense attorney and identify for the record	_		
	Ask to approach the witness			
	Show the witness the exhibit and identify for the record			
	Ask the witness if, and how, they recognize the exhibit Admit	_	 	
•	Publish			
	Basics of Admitting			
	Evidence	_		
	How to admit: "Fair and accurate representation"	_		
	· now to admit: rair and accurate representation			
	You don't need the photographer	_		
	Need someone who saw the scene on the relevant day	_	 	
	A J			
	Admitting numerous photos of the same location	_		
		_		
	Dhotoe			
	Photos	_		

Two Separate issues...

- 1. Witness <u>unable</u> to identify exhibit by visual appearance
- 2. Witness <u>able</u> to identify exhibit by visual appearance

Physical Evidence

Witness unable to identify by visual appearance

- · Establish chain of custody
 - ESTADIISH CHAIR OF CUSTODY

 A party seeking to authenticate evidence based on a chain of custody "must show continuity of possession, but it need not disprove every remote possibility of tampering." State v. Spears, 184 Ariz. 277, 287, 908 P.2d 1062, 1072 (1996). Furthermore, "ia partyl need not call every person who had an opportunity to come in contact with the evidence sought to be admitted." State v. Hurles, 185 Ariz. 199, 206, 914 P.2d 1291, 1298 (1996). State v. McCray, 218 Ariz. 252, 183 P.3d 503 (2008)

Physical Evidence

Physical Evidence

(Witness can't recall)

- Identify with distinct markings
 - Defendant's name
 - Date that the evidence was collected
 - Officer's signature or initials
 - Officer's badge number
 - Police report number
 - Explain that the report number is unique
- Explain what "impounding" means
- Don't have to call everyone person who came into contact with the evidence.
- Admit once the chain has been established

Witness able to identify by visual appearance

• "Same or substantially similar condition..."

Physical Evidence

- How to admit: Similar to photos
- Two scenarios:
 - Witness present at time and location that video was recorded, or
 - · No witnesses present when video was recorded
- Witness present
 - Fair and accurate representation
 - Caution: Is there a part of the video where the witness wasn't present?

Videos

- No witness present
 - Qualified witness needed:
 - What type of system?
 - How does it record?When does it record?
 - How is the video saved?

 - Who obtained the video?
 Was the system working properly when the video was picked up?
 Was the video reviewed?
- When reviewed was there anything to suggest that the video didn't record properly?
 If witness is familiar with the scene, does the video fairly and accurately reflect that location?
 Finally, chain of custody.

- But before all that, talk to the defense

Videos Continued

- Redact the copy from police department
- Tell defense attorney about redaction
- Have victim/witness listen beforehand
- Lay foundation before admitting
 - · Present sense impression
 - Excited Utterance

A.R.S. § 13-3989.01

911 Calls

- How to admit: Certify and establish relevance
- Certified Document
 - Priors or Bank Records A.R.S. § 13-1812
 - Have a witness establish relevance
- Uncertified Document
 - Need a custodian or other qualified witness to show document was:
 - Made at or near the time of the occurrence
 - Made as part of the regular practice of that business activity
 - Kept in the ordinary course of regularly conducted business activity

Documents

- Used for uncontested issues
- · Can be helpful to move the case along more quickly
- · Does the stipulation help your case?
- If not, don't accept a stipulation
 - Fracture example

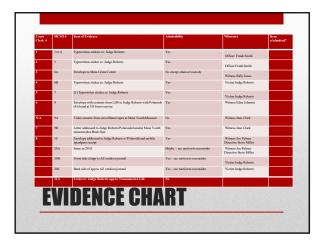
Stipulations

- Review for redactions
- Communicate with defense counsel
- Have a court hearing if necessary
- Complete redactions prior to trial

REDACTIONS

- Show the jury how guilty the defendant is
- Photos
- Use projector
- Three pass method
- Video
 - Review for specific times
- Documents
 - Have the witness read
- Physical Evidence
 - Have the witness show the jury

What to do after evidence is admitted:



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Foundation

- Also, we note that where a partial foundation exists, it is incumbent upon the objecting party to specify what foundation is lacking so that the introducing party may address the issue. See Packard v. Reidhead, 22 Ariz. App. 420, 423, 528 P.2d 171, 174 (1974). While defendant made a foundation objection at trial, he did not indicate what foundation was lacking. State v. Rodriguez, 186 Ariz. 240, 921 P.2d 643 (1996)
- Chain of Custody
 - Chain of Cutstody

 Detective Rea described from personal knowledge the chain of custody of the fluid samples from their collection at the autopsy to their delivery to DPs. To the extent his recollection of the events was incomplete or conflicted with testimony by other witnesses, these concerns go to the weight rather than the admissibility of the evidence. See State v. Gonzales, 181 Ariz. 502, 511, 892 P.2d 838, 847 (1995). The trial Judge did not abuse his discretion in admitting the DNA evidence. State v. McCray, 218 Ariz. 252, 183 P.3d 503 (2008)

Two Common Defense Objections

- Relevance
- Hearsay
- Authentication and Identification
- Contents

OTHER OBJECTIONS

- ☐ Get the evidence to court
- ☐ Have a plan
- ☐ Admit the evidence
- ☐ Show it to the jury
- Explain what it is
- ☐ Check to make sure everything is admitted before resting
- lacktriangle Make sure the right evidence goes back to the jury

Checklist